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February 12, 1992

FM EXAMINERS

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FEB 12 1992

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Federal Communications Commission
Office of the Secretary

Re: Deas Communications, Inc.
File No. BPH-910208MB

Dear Ms. Searcy:

Deas Communications, Inc., by its attorneys, hereby files an original and six copies of its "OBJECTION TO COMMENTS" in this proceeding.

Please contact the undersigned directly if there are any questions concerning this matter.

Sincerely yours,

David G. O'Neil
David G. O'Neil

DGO:do
Enclosures (7)

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FM EXAMINERS

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Federal Communications Commission
Office of the Secretary

In re Applications of)
)
DEAS COMMUNICATIONS, INC.) File No. BPH-910208MB
)
For a Construction Permit for a)
New FM Station on Channel 240A)
Healdsburg, California)

To: The Chief, Mass Media Bureau

OBJECTION TO COMMENTS

Deas Communications, Inc. ("Deas Communications"), by its attorneys, hereby submits its objection to comments dated January 16, 1992 by Mr. William J. Smith. Mr. Smith provides no evidence of an adjudication against Deas Communications sufficient to warrant consideration of the character qualifications of Deas Communications or the necessity of specifying a Section 1.65 issue against Deas Communications. Accordingly, the Commission should reject Mr. Smith's comments. In support thereof, the following is hereby shown:

1. Mr. Smith attempts to inform the Commission about matters he believes are relevant to the above captioned proceeding. His comments are neither a petition to deny Deas Communication's application nor an objection, and his comments are premature as a petition to enlarge issues. In addition, although Mr. Smith mailed his comments on January 16, 1992, counsel for Deas Communications did not receive a copy of the comments until January 22, 1992. Because the Commission's Rules

do not establish a deadline for filing an objection to Mr. Smith's comments, Deas Communications has filed its objection to Mr. Smith's comments as expeditiously as possible.

2. Mr. Smith requests suspension of any authorization for Deas Communications in the above captioned proceeding and the addition of a Section 1.65 issue against Deas Communications. Mr. Smith's request solely is based on a grand jury investigation of Mr. M. Edgar Deas, a principal of Deas Communications. The grand jury investigation was precipitated because of an allegation that Mr. Deas, a member of the Healdsburg City Council, may have a conflict of interest. The basis for the complaint is Mr. Deas' ownership of a company that has conducted business with the City of Healdsburg and his ownership and financial interest in properties affected by the Healdsburg Community Redevelopment Agency ("CRA"). Mr. Deas is a member of the CRA governing board.

3. The grand jury did not find Mr. Deas guilty of any wrongdoing. Nor did it indict Mr. Deas. Instead, it recommended that the Sonoma County District Attorney, the Healdsburg Attorney, and the Fair Political Practices Commission provide an opinion on any potential conflicts of interest on the part of Mr. Deas and other members of the City Council and CRA.

4. It is Commission policy to decline to consider the character qualifications of an applicant based on non-FCC related misconduct prior to adjudication by another agency or court.
Policy Regarding Character Qualifications in Broadcast Licensing,

102 FCC 2d 1179, 1204-05 (1986), recon. granted in part, 1 FCC Rcd 421 (1986), appeal dismissed sub nom. National Association for Better Broadcasting v. FCC, No. 86-1179 (D.C. Cir. June 11, 1987) (Commission will not take cognizance of non-FCC misconduct unless it is adjudicated by an appropriate trier of fact, either by a government agency or a court). The Commission recognizes that it does not have the expertise or resources to resolve questions of state or federal law and that it is generally more efficient to allow other forums to resolve such matters and for the Commission to concentrate on adjudicated misconduct. Policy Regarding Character Qualifications in Broadcast Licensing, 6 FCC Rcd 3448, 3448-49 (1991).

5. The grand jury did not enter an indictment against Mr. Deas. Nor was there any adjudicated violation. The grand jury solely concluded that, based on the record placed before it, a report on potential conflicts of interest by skilled counsel was necessary. In addition, the grand jury is not a trier of fact akin to a court or agency. Rather, it is the threshold element in a fact finding process which possibly may relay a matter to a trier of fact. Because there is no adjudicated violation of non-FCC misconduct against Mr. Deas, the Commission must reject Mr. Smith's allegations as having no bearing on the character qualifications of Deas Communications.

6. Further, there is no basis for addition of a Section 1.65 issue. Section 1.65 requires an applicant to provide information on pending adjudications of relevant

misconduct to the Commission. Policy Regarding Character Qualifications in Broadcast Licensing, 5 FCC Rcd 3252, 3253 (1990), recon. granted in part, 6 FCC Rcd 3448 (1991). As discussed above, no pending adjudication exists against Deas Communications. Consequently, Deas Communications has no obligation to report the grand jury's conclusions to the Commission.

7. Deas Communications has not been convicted of any misconduct whatsoever. The grand jury's recommendations here are analogous to a tax audit, not a tax conviction. Consequently, the grand jury's recommendations do not rise to the level of imposing a Section 1.65 reporting obligation upon Deas Communications.

WHEREFORE, for the foregoing reasons, Deas Communications requests that the Commission dismiss and reject the comments filed by Mr. Smith.

Respectfully submitted,



Lee W. Shubert
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Its attorneys

February 12, 1992

CERTIFICATE OF SERVICE

I, Nancy E. Davies, a secretary in the law offices of Haley, Bader & Potts, hereby certify that I have on this 12th day of February, 1992, sent copies of the foregoing "OBJECTION TO COMMENTS" by first-class United States mail, postage prepaid, to the following:

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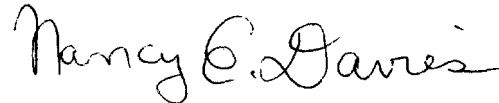
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Nancy E. Davies

*Hand Delivered